

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FUZZYSHARP TECHNOLOGIES, No. C 05-01318 CW

v.

ATI TECHNOLOGIES, INC.,

**AMENDED**  
MINUTE ORDER AND  
CASE MANAGEMENT  
ORDER

Clerk: Sheilah Cahill Reporter: Diane Skillman  
Plaintiff Attorney: David Fink  
Defendant Attorney: Thom Tornay; Matthew McCarthy

A case management conference was held on: 8/12/05. The Case Management Statement and Proposed Order filed by the parties is hereby adopted by the Court as the Case Management Order for the case, except as may be noted below. The Court's standard Order for Pretrial Preparation also applies.

The case is hereby referred to the following ADR process:  
Non-binding Arbitration: [ ] Early Neutral Evaluation: [ X ]  
Court-connected mediation: [ ] Private mediation: [ ]  
Magistrate Judge settlement conference: [ ]  
ADR session to be held by: (01/31/06)  
(or as soon thereafter as is convenient to the mediator's schedule)

Deadline to add additional parties or claims: (11/10/05)  
Date of next case management conference: (09/15/06)

Completion of Fact Discovery: (05/03/06)  
Disclosure of identities and reports of expert witnesses: (04/03/06)  
Completion of Expert Discovery: (05/03/06)

All case-dispositive motions and **Claim Construction Hearing**  
to be heard at 10:00 AM on or before: (09/15/06)  
Final Pretrial Conference at 1:30 P.M. on: (11/17/06)  
An 8 day Jury Trial will begin at 8:30 A.M. on: (12/04/06)

Additional Matters: Copy of Court's Order for Pretrial Preparation given to attys in court. **Plaintiff to file opening Claim Construction/Dispositive motion contained within one brief on 6/30/06; Defendant's Claim Construction/Cross dispositive motion contained within one brief due 7/28/06; Plaintiff reply/opposition due 8/11/06; Defendant surreply due 8/18/06.** FCMC will be held on 9/15/06 at 10:00 (or on whatever date Claim Construction/dispositive motions are heard). See attached for Claim Construction dates.

IT IS SO ORDERED.

Dated: 9/8/05

/s/ CLAUDIA WILKEN  
CLAUDIA WILKEN  
United States District Judge

**United States District Court**  
For the Northern District of California

1 Copies to: Chambers; ADR

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

CLAIM CONSTRUCTION DATES

Plaintiff's Disclosure of Preliminary Infringement Contentions and Document Production under Patent L.R. 3-1 & 3-2	August 26, 2005
Defendant's Disclosure of Preliminary Invalidity Contentions and Document Production under Patent L.R. 3-3 & 3-4	October 11, 2005
Exchange Proposed Terms and Elements for Construction (Patent L.R. 4-1)	November 18, 2005
Exchange of Preliminary Claim Constructions and Extrinsic Evidence (Patent L.R. 4-2)	December 16, 2005
Joint Claim Construction and Prehearing Statement (Patent L.R. 4-3)	January 9, 2006
Claim Construction Discovery Cutoff (Patent L.R. 4-4)	February 9, 2006

NOTICE

Criminal Law and Motion calendar is conducted on Mondays at 2:00 p.m. (in custody) and 2:30 p.m. (not in custody). Civil Law and Motion calendar is conducted on Fridays at 10:00 a.m. Case Management Conferences and Pretrial Conferences are conducted on Fridays at 1:30 p.m. Order of call is determined by the Court. Counsel need not reserve a hearing date for civil motions; however, counsel are advised to check the legal newspapers or the Court's website at [www.cand.uscourts.gov](http://www.cand.uscourts.gov) for unavailable dates.

Motions for Summary Judgment: All issues shall be contained within one motion and shall conform with Civil L.R. 7-2. Separate statements of undisputed facts in support of or in opposition to motions for summary judgment will not be considered by the Court. (See Civil Local Rule 56-2(a)). All briefing on motions for summary judgment must be included in the memoranda of points and authorities in support of, opposition to, or reply to the motion, and must comply with the page limits of Civil Local Rule 7-4. The memoranda should include a statement of facts supported by citations to the declarations filed with respect to the motion. Cross or counter-motions shall be contained within the opposition to any motion for summary judgment and shall conform with Civil L.R. 7-3. The Court may, *sua sponte* or pursuant to a motion under Civil L.R. 6-3, reschedule the hearing so as to give a moving party time to file a surreply to the cross or counter-motion.

1 All DISCOVERY MOTIONS are referred to a Magistrate Judge to  
2 be heard and considered at the convenience of his/her calendar.

3 All such matters shall be noticed by the moving party for  
4 hearing on the assigned Magistrate Judge's regular law and  
5 motion calendar, or pursuant to that Judge's procedures.  
6

7 .

8  
9  
10 (rev. 5/11/05)  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER FOR PRETRIAL PREPARATION

PRETRIAL CONFERENCE

1. Not less than 30 days prior to the pretrial conference, counsel shall exchange (but not file or lodge) the papers described in Civil L.R. 16-10(b)(7),(8),(9), and (10), and their motions in limine.

2. At least 20 days before the final pretrial conference, lead counsel who will try the case shall meet and confer with respect to:

(a) Preparation and content of the joint pretrial conference statement;

(b) Resolution of any differences between the parties regarding the preparation and content of the joint pretrial conference statement and the preparation and exchange of pretrial materials to be served and lodged pursuant to this Order for Pretrial Preparation. To the extent such differences are not resolved, parties will present the

1 issues in the pretrial conference statement so that the  
2 judge may rule on the matter during the pretrial  
3 conference; and  
4

5 (c) Settlement of the action.  
6

7  
8 3. Not less than 10 days prior to the pretrial conference,  
9  
10 counsel shall submit the following.

11 (a) Pretrial Conference Statement. The parties shall  
12  
13 file a joint pretrial conference statement containing the  
14  
15 following information:  
16

17  
18 (1) The Action.  
19

20 (A) Substance of the Action. A brief description of  
21 the substance of claims and defenses which remain to be  
22 decided.  
23

24 (B) Relief Prayed. A detailed statement of all the  
25 relief claimed, particularly itemizing all elements of  
26 damages claimed.  
27  
28

1 (2) The Factual Basis of the Action.

2  
3 (A) Undisputed Facts. A plain and concise statement  
4 of all relevant facts not reasonably disputed.  
5

6 (B) Disputed Factual Issues. A plain and concise  
7 statement of all disputed factual issues which remain to be  
8 decided.  
9

10 (C) Agreed Statement. A statement assessing whether  
11 all or part of the action may be presented upon an agreed  
12 statement of facts.  
13

14 (D) Stipulations. A statement of stipulations  
15 requested or proposed for pretrial or trial purposes.  
16

17 (3) Disputed Legal Issues. Without extended legal  
18 argument, a concise statement of each disputed point of law  
19 concerning liability or relief.  
20  
21

22 (4) Further Discovery or Motions. A statement of all  
23 remaining discovery or motions.  
24  
25

26 (5) Trial Alternatives and Options.  
27  
28



1 (A) Settlement Discussion. A statement summarizing  
2 the status of settlement negotiations and indicating  
3 whether further negotiations are likely to be productive.  
4

5 (B) Consent to Trial Before a Magistrate Judge. A  
6 statement whether the parties consent to a court or jury  
7 trial before a magistrate judge, with appeal directly to  
8 the Ninth Circuit.  
9

10 (C) Bifurcation, Separate Trial of Issues. A  
11 statement of whether bifurcation or a separate trial of  
12 specific issues is feasible and desired.  
13

14 (6) Miscellaneous. Any other subjects relevant to the  
15 trial of the action, or material to its just, speedy and  
16 inexpensive determination.  
17  
18  
19

20 (b) Exhibit List and Objections. The exhibit list  
21 shall list each proposed exhibit by its number, description, and  
22 sponsoring witness, followed by blanks to accommodate the date  
23 on which it is marked for identification and the date on which  
24  
25  
26  
27  
28

1 it is admitted into evidence. No party shall be permitted to  
2  
3 offer any exhibit in its case-in-chief that is not disclosed in  
4  
5 its exhibit list without leave of the Court for good cause  
6  
7 shown. Parties shall also deliver a set of premarked exhibits  
8  
9 to the Courtroom Deputy. The exhibit markers shall each contain  
10  
11 the name and number of the case, the number of the exhibit, and  
12  
13 blanks to accommodate the date admitted and the Deputy Clerk's  
14  
15 initials. (Appropriate sample forms are available on the  
16  
17 Court's website at [www.cand.uscourts.gov](http://www.cand.uscourts.gov)). Any objections to  
18  
19 exhibits which remain after the pretrial meeting shall be  
20  
21 indicated in the pretrial statement.  
22

23  
24 (c) Witness List. In addition to the requirements of  
25  
26 FR CivP 26(a)(3)(A), a brief statement describing the substance  
27  
28 of the testimony to be given by each witness who may be called

1 at trial. No party shall be permitted to call any witness in  
2  
3 its case-in-chief that is not disclosed in its pretrial  
4  
5 statement without leave of Court for good cause shown.  
6

7 (d) Use of Discovery Responses. In addition to the  
8  
9 requirements of FRCP 26(a)(3)(B), a designation of any  
10  
11 excerpts from interrogatory answers or from responses for  
12  
13 admissions intended to be offered at trial. Counsel shall  
14  
15 indicate any objections to use of these materials and that  
16  
17 counsel have conferred respecting such objections.  
18  
19  
20  
21

22 (e) Trial briefs. Briefs on all significant disputed  
23  
24 issues of law, including foreseeable procedural and evidentiary  
25  
26 issues, which remain after the pretrial meeting.  
27  
28

1                   (f) Motions in Limine. Any motions in limine that  
2  
3 could not be settled at the pretrial meeting shall be filed with  
4  
5 the pretrial statement. All motions in limine shall be  
6  
7 contained within one document, limited to 25 pages pursuant to  
8  
9 Civil L.R. 7-2(b), with each motion listed as a subheading.  
10

11 Opposition to the motions in limine shall be contained within  
12  
13 one document, limited to 25 pages, with corresponding  
14  
15 subheadings, and filed five (5) days thereafter.  
16

17                   (g) Joint Proposed Voir Dire. The attached voir dire  
18  
19 questionnaire will be given to the venire members, and copies of  
20  
21 the responses will be made available to counsel at the beginning  
22  
23 of voir dire. Counsel may submit a set of additional requested  
24  
25 voir dire, to be posed by the Court, to which they have agreed  
26  
27  
28 at the pretrial meeting. Any voir dire questions on which

1 counsel cannot agree shall be submitted separately. Counsel may  
2  
3 be allowed brief follow-up voir dire after the Court's  
4  
5 questioning.  
6

7  
8 (h) Joint Proposed Jury Instructions. Jury  
9  
10 instructions §1.1 through §1.12, §1.13 through §2.2, and §3.1  
11  
12 through §4.3 from the Manual of Model Civil Jury Instructions  
13  
14 for the Ninth Circuit (2001 Edition) will be given absent  
15  
16 objection. Counsel shall jointly submit one set of additional  
17  
18 proposed jury instructions, to which they have agreed at the  
19  
20 pretrial meeting. The instructions shall be ordered in a  
21  
22 logical sequence, together with a table of contents. Any  
23  
24 instruction on which counsel cannot agree shall be marked as  
25  
26 "disputed," and shall be included within the jointly submitted  
27  
28 instructions and accompanying table of contents, in the place

1 where the party proposing the instruction believes it should be  
2  
3 given. Argument and authority for and against each disputed  
4  
5 instruction shall be included as part of the joint submission,  
6  
7 on separate sheets directly following the disputed instruction.  
8

9  
10 Whenever possible, counsel shall deliver to the Courtroom  
11  
12 Deputy a copy of their joint proposed jury instructions on a  
13  
14 computer disk in WordPerfect or ASCII format. The disk label  
15  
16 should include the name of the parties, the case number and a  
17  
18 description of the document.

19  
20 (I) Proposed Verdict Forms, Joint or Separate.

21  
22 (j) Proposed Findings of Fact and Conclusions of Law  
23  
24 (Court Trial only). Whenever possible, counsel shall deliver to  
25  
26 the Courtroom Deputy a copy of their proposed findings of fact  
27  
28 and conclusions of law on a computer disk in WordPerfect or

1 ASCII format. The disk label should include the name of the  
2  
3 parties, the case number and a description of the document.  
4

5 JURY SELECTION  
6

7  
8 The Jury Commissioner will summon 20 to 25 prospective  
9  
10 jurors. The Courtroom Deputy will select their names at random  
11  
12 and seat them in the courtroom in the order in which their names  
13  
14 are called.

15  
16 Voir dire will be asked of sufficient venire persons so  
17  
18 that eight (or more for a lengthy trial) will remain after all  
19  
20 peremptory challenges and an anticipated number of hardship  
21  
22 dismissals and cause challenges have been made.

23  
24 The Court will then take cause challenges, and discuss  
25  
26 hardship claims from the individual jurors, outside the presence  
27  
28 of the venire. The Court will inform the attorneys which

1 hardship claims and cause challenges will be granted, but will  
2  
3 not announce those dismissals until the process is completed.

4  
5 Each side may then list in writing up to three peremptory  
6  
7 challenges. The attorneys will review each other's lists and  
8  
9 then submit them to the Courtroom Deputy.  
10

11 Then, from the list of jurors in numerical order, the Court  
12  
13 will strike the persons with meritorious hardships, those  
14  
15 excused for cause, and those challenged peremptorily, and call  
16  
17 the first eight people in numerical sequence remaining. Those  
18  
19 people will be the jury.  
20

21  
22 All jurors remaining at the close of the case will  
23  
24 deliberate. There are no alternates.

25  
26 SANCTIONS  
27  
28



1 Failure to comply with this Order is cause for sanctions  
2  
3 under Federal Rule of Civil Procedure 16(f).  
4

5 IT IS SO ORDERED.  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**United States District Court**  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated:

s/CLAUDIA WILKEN

CLAUDIA WILKEN

UNITED STATES DISTRICT JUDGE

JUROR QUESTIONNAIRE

Please fill out this form as completely as possible and print clearly. Since we want to make copies for the attorneys and the Court, do not write on the back of any page. If you need more room, continue at the bottom of the page. Thank you for your cooperation.

1. Your name: \_\_\_\_\_

2. Your age: \_\_\_\_\_

3. The city where you live: \_\_\_\_\_

4. Your place of birth: \_\_\_\_\_

5. Do you rent or own your own home? \_\_\_\_\_

6. Your marital status: (circle one)

single      married      separated      divorced      widowed

7. What is your occupation, and how long have you worked in it? (If you are retired, please describe your main

1                    occupation when you were working).

2  
3  
4  
5  
6  
7  
8        8.     Who is (or was) your employer?  
9  
10

11  
12       9.     How long have you worked for this employer? \_\_\_\_\_  
13

14       10.    Please list the occupations of any adults with whom you  
15           live.  
16  
17

18  
19       11.    If you have children, please list their ages and sex and,  
20           if they are employed, please give their occupations.  
21  
22  
23  
24  
25  
26  
27  
28

1 12. Please describe your educational background:  
2

3 Highest grade completed: \_\_\_\_\_  
4

5 College and/or vocational schools you have attended:  
6

7 \_\_\_\_\_  
8

9 \_\_\_\_\_  
10

11 \_\_\_\_\_  
12

13 \_\_\_\_\_  
14

15 Major areas of study: \_\_\_\_\_  
16

17 13. Have you ever served on a jury before? \_\_\_\_\_ How many  
18

19 times? \_\_\_\_\_  
20

21 If yes: State/County Court \_\_\_\_\_ Federal Court \_\_\_\_\_  
22

23 When? \_\_\_\_\_  
24

25 Was it a civil or criminal case? \_\_\_\_\_  
26

27 Did the jury(ies) reach a verdict? \_\_\_\_\_  
28

**United States District Court**  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(rev. 9/4/02)